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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/442,909	11/18/1999	DOUGLAS GEORGE MURRAY	EN999088	6548

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EXAMINER

BLACK, LINH

ART UNIT	PAPER NUMBER
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2177

DATE MAILED: 07/08/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/442,909

Applicant(s)

MURRAY, DOUGLAS GEORGE

Examiner

Linh Black

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-14, 28, 30-40 and 51-60 is/are allowed.
- 6) ☒ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The use of the trademark such as Windows NT etc...on page 17 has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner, which might adversely affect their

validity as trademarks. Please check the whole specification for the appropriate use of trademark.

Drawings

3. The drawings are objected to under 37 CFR 1.84(o) because they fail to show necessary textual labels of features in Fig. 1 (element 10). Please provide a textual label for element 10 of figure 1. Also, any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
4. The drawing (fig. 1) is also objected to under 37 CFR 1.84(p)(4) because according to the 37 CFR 1.84(p)(4), "The same part of an invention appearing in more than one view of the drawing must always be designated by the same reference character, and the same reference character must never be used to designate different parts." However, according to fig. 1, elements 12, 16, and 18 are designated to different physical client computers, inquiry tool, and dictionary respectively. Please check and correct the elements' numbers. Different client computers can be assigned element numbers as 12a, 12b, etc...A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 15, 29, 41, and 61 are rejected under 35 U.S.C. 102(e) as being anticipated by Matheny et al (USP 6259446).

Matheny anticipated the independent claim 29 by the following:

A memory for storing a dictionary file data structure – col. 3, lines 7-15; col. 8, lines 47-62; col. 32, lines 25-32; the dictionary file data structure facilitating gathering information on a state of a computer system – the abstract; col. 1, lines 30 to col. 2, line 6; col. 23, lines 6-62; the dictionary file data structure comprising: a plurality of inquiries for

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ascertaining said state information on said computer system – col. 35, line 64 to col. 36, line 3; col. 32, lines 25-32; at least one inquiry of the plurality of inquiries comprising an instruction having a result which is output when a condition of said instruction is satisfied – col. 1, lines 59-65; col. 23, lines 26-49; col. 27, lines 1-5.

6. Matheny anticipated the independent claims 15, 41, and 61 by the following: providing a dictionary file having a plurality of inquiries for ascertaining state information on said computer system – col. 32, lines 7-32; col. 1, lines 30-45, and line 65 to line 6 of col. 2; at least one inquiry ... when a condition of said instruction is satisfied - col. 1, lines 59-65; col. 23, lines 26-49; col. 27, lines 1-5; processing at least one inquiry of said ... said dictionary file to accumulate said state information - col. 35, line 64 to col. 36, line 3; col. 32, lines 25-32; said processing comprising for each instruction ...at least one instruction – col. 1, line 59 to col. 2, line 6; col. 35, line 64 to col. 36, line 3; col. 32, lines 7-32.

Allowable Subject Matter

7. Claims 1-14, 30-40, 51-60 are allowed.
8. Claims 16-28, 42-50, 62-70 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linh Black whose telephone number is 703-305-0317. The examiner can normally be reached on 7am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on 703-305-9790. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9707.

Linh Black
Examiner
Art Unit 2177
June 16, 2003

Linh Black


GRETA ROBINSON
PRIMARY EXAMINER